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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

In re MUSICAL INSTRUMENTS AND
EQUIPMENT ANTITRUST LITIGATION

No. MDL Docket No. 2121

JOINT MOTION FOR INITIAL PRETRIAL
CONFERENCE

This Document Relates To:

ALL ACTIONS.

1 Plaintiffs¹ and the defendants identified below² in the 30-plus actions subject to the transfer
 2 orders of the Judicial Panel on Multidistrict Litigation (“MDL Panel”) in *In re Musical Instruments*
 3 *and Equipment Antitrust Litigation*, No. 3:09-md-02121-LAB-POR (S.D. Cal.) and cases transferred
 4 to this Court pursuant to the “low number” rule, jointly move the Court to schedule an initial pretrial
 5 conference. Counsel for plaintiffs Colby Giles, David Giambusso, Niranjana Parikh, Kate

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 7 ¹ Counsel for plaintiff Colby Giles (*Giles v. Guitar Center, Inc.*, No. 3:09-cv-02146 (S.D.
 8 Cal.), filed September 30, 2009) represents that the plaintiffs in 36 of the 37 other related cases join
 9 in this motion. Including the *Giles* case, the 27 cases consolidated in this District by the MDL Panel
 10 are: *Giambusso v. National Association of Music Merchants, Inc.*, No. 3:09-cv-02002 (C.D. Cal.);
 11 *Hale v. Guitar Center Inc.*, No. 2:09-cv-06897 (C.D. Cal.); *O’Leary v. Guitar Center Inc.*, No. 2:09-
 12 cv-07015 (C.D. Cal.); *Collins v. Guitar Center, Inc.*, No. 3:09-cv-02151 (S.D. Cal.); *Teller v. Guitar*
 13 *Center, Inc.*, No. 1:09-cv-06104 (N.D. Ill.); *Keel v. Guitar Center, Inc.*, No. 3:09-cv-02156 (S.D.
 14 Cal.); *Parikh v. Guitar Center, Inc.*, No. 2:09-cv-07254 (C.D. Cal.); *Manyin v. Guitar Center, Inc.*,
 15 No. 1:09-cv-01950 (D.D.C.); *Williamson v. Guitar Center, Inc.*, No. 2:09-cv-07375 (C.D. Cal.);
 16 *Cervantes v. Guitar Center, Inc.*, No. 2:09-cv-07526 (C.D. Cal.); *Bandish v. Guitar Center, Inc.*, No.
 17 1:09-cv-01984 (D.D.C.); *Poff, Jr. v. Guitar Center, Inc.*, No. 2:09-cv-07614 (C.D. Cal.); *Cook v.*
 18 *Guitar Center, Inc.*, No. 2:09-cv-07630 (C.D. Cal.); *Melton v. Guitar Center, Inc.*, No. 1:09-cv-
 19 02002 (D.D.C.); *Logsdon v. Guitar Center, Inc.*, No. 2:09-cv-07783 (C.D. Cal.); *Tabas v. Guitar*
 20 *Center, Inc.*, No. 1:09-cv-02019 (D.D.C.); *Bigg v. Guitar Center, Inc.*, No. 3:09-cv-00869 (W.D.
 21 Ky.); *Roessler v. Guitar Center, Inc.*, No. 2:09-cv-07923 (C.D. Cal.); *Roach v. National Association*
 22 *of Music Merchants, Inc.*, No. 1:09-cv-00940 (E.D. Tex.); *Armstrong v. National Association of*
 23 *Music Merchants, Inc.*, No. 1:09-cv-00942 (E.D. Tex.); *Pearson v. Guitar Center, Inc.*, No. 1:09-cv-
 06872 (N.D. Ill.); *Kennedy v. National Association of Music Merchants, Inc.*, No. 2:09-cv-07985
 (C.D. Cal.); *Jost v. Guitar Center, Inc.*, No. 3:09-cv-00923 (S.D. Ill.); *Jennings v. Guitar Center,*
Inc., No. 2:09-cv-08343 (C.D. Cal.); *Wiggins v. Guitar Center, Inc.*, No. 3:10-cv-00631 (N.D. Cal.);
 and *Smith v. Guitar Center, Inc.*, No. 2:09-cv-08708 (C.D. Cal.). There are an additional ten cases
 which were transferred to this Court pursuant to the “low-number” rule: *Witherspoon v. National*
Association of Music Merchants, Inc., No. 3:09-cv-02178 (S.D. Cal.); *Ramsey v. National*
Association of Music Merchants, Inc., No. 3:09-cv-02211 (S.D. Cal.); *Sepulveda v. Guitar Center,*
Inc., No. 3:09-cv-02267 (S.D. Cal.); *Paradise v. National Association of Music Merchants, Inc.*, No.
 3:09-cv-02285 (S.D. Cal.); *Bohl v. National Association of Music Merchants, Inc.*, No. 3:09-cv-
 02332 (S.D. Cal.); *Lesko v. Guitar Center, Inc.*, No. 3:09-cv-02418 (S.D. Cal.); *Seiler v. Guitar*
Center, Inc., No. 3:09-cv-02423 (S.D. Cal.); *Gagnepain v. Guitar Center, Inc.*, No. 3:09-cv-02488
 (S.D. Cal.); *Feltheimer v. National Association of Music Merchants, Inc.*, No. 3:10-cv-00075 (S.D.
 Cal.); and *Kaufman v. National Association of Music Merchants, Inc.* 3:10-cv-00103 (S.D. Cal.).
 Counsel for plaintiffs Colby Giles, David Giambusso, Niranjana Parikh, Kate MacWilliamson and
 Jason Paradise consulted with counsel for Walter Witherspoon, however, Mr. Witherspoon does not
 join in this motion.

24 ² The defendants joining in this motion are: Guitar Center, Inc. (“Guitar Center”); Guitar
 25 Center Stores, Inc.; National Association of Music Merchants, Inc. (“NAMM”); Yamaha
 26 Corporation of America; Fender Musical Instruments Corp.; Gibson Guitar Corp.; Gibson Musical
 27 Instruments Corporation; C.F. Martin & Co., Inc.; and Korg USA, Inc. (collectively, the
 28 “defendants”). Plaintiffs have not served the following defendants: Bain Capital, LLC; Peavey
 Electronics; TASCAM; TEAC Corporation of North America; and TEAC. Additionally, Dean
 Markley Electronics, Inc. and D’Addario & Company, Inc. were served, but have yet to enter an
 appearance.

1 MacWilliamson and Jason Paradise, and counsel for defendants Guitar Center and NAMM on behalf
2 of all defendants joining in this motion, met and conferred by telephone on March 3, 2010 and
3 reached agreement on the following:

4 Pursuant to Rule 16 of the Federal Rules of Civil Procedure, the parties jointly request the
5 Court schedule an initial pretrial conference at the Court's convenience and stay the requirements of
6 Rule 26, until after interim lead counsel is selected and a consolidated amended complaint is filed.
7 Defendants informed plaintiffs' counsel that they expect, on the basis of the previously filed
8 complaints, to file a motion to dismiss the consolidated amended complaint in its entirety and seek a
9 stay of discovery until after the Court rules on their motion to dismiss; plaintiffs assert that such a
10 stay is not appropriate. The parties respectfully suggest that the Court and the parties address the
11 following topics at the initial pretrial conference:

- 12 1. Transfer status of consolidated cases;
 - 13 2. The manner in which subsequently filed actions will be treated;
 - 14 3. Briefing schedule of interim lead counsel motions;
 - 15 4. Deadlines for the filing of an consolidated amended complaint and responsive
16 pleadings or motions;
 - 17 5. The timing of an initial case management conference. The parties propose that prior
18 to the date of this case management conference set by the Court, the parties will file a status report
19 on outstanding issues;
 - 20 6. Admission of attorneys; and
 - 21 7. Filing, service and docketing.
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1 Additionally, plaintiffs' counsel informed defendants' counsel that plaintiffs intend to request at the
2 initial pretrial conference that the Court enter a preservation order. Defendants believe that a
3 preservation order is unnecessary because defendants are aware of their obligations.

4 DATED: March 31, 2010

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11 **ECF CERTIFICATION**

12 The filing attorney attests that she has obtained concurrence regarding the filing of this
13 document from the signatories to this document.

14 DATED: March 31, 2010

15 By: s/ Bonny E. Sweeney
BONNY E. SWEENEY

CERTIFICATE OF SERVICE

I hereby certify that on March 31, 2010, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the attached Electronic Mail Notice List, and I hereby certify that I have mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on March 31, 2010.

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